

Message Text

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ACTION SNM-05

INFO OCT-01 AF-10 IO-14 ISO-00 L-03 PPTE-00 CA-01
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-----097295 160116Z /13

R 150821Z AUG 78
FM AMEMBASSY LUSAKA
TO SECSTATE WASHDC 9034
INFO USMISSION GENEVA
AMEMBASSY DAR ES SALAAM
AMCONSUL LUBUMBASHI
AMEMBASSY KINSHASA
AMEMBASSY LILONGWE
AMEMBASSY GABORONE

UNCLAS LUSAKA 2857

E.O. 11652: N/A
TAGS: SNAR
SUBJECT: NARCOTICS LAWS

REF: A) STATE 170187 B) STATE 203321

1. FOLLOWING REPORT ON ZAMBIAN NARCOTICS LAWS IS BEING
SUBMITTED AS REQUESTED PER REFTELS. COPY DANGEROUS DRUGS ACT,
CHAPTER 549 OF LAWS OF ZAMBIA BEING POUCHED. REPORT FOLLOWS
FORMAT OF REFTEL A.

2. POSSESSION: A) THERE IS NO DIFFERENTIATION MADE IN THE LAW
FOR POSSESSION OF VARIOUS NARCOTICS. B) THERE IS NO QUALIFYING
AMOUNT TO BE IN POSSESSION FOR OPERATION OF THE OFFENCE. POSSESSION
OF ANY AMOUNT IS SUFFICIENT FOR OPERATION OF THE OFFENCE.
C) PENALTIES FOR POSSESSION DO NOT DIFFER FROM PENALTIES
FOR TRAFFICKING. HOWEVER THERE IS A LESSER PENALTY PRESCRIBED
FOR AN OFFENSE CONSISTING IN A CONTRAVENTION OF, OR FAILURE TO
COMPLY WITH, A REGULATION UNDER THE DANGEROUS DRUGS
ACT RELATING TO THE KEEPING OF BOOKS OR THE ISSUING OR
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DISPENSING OF PRESCRIPTIONS CONTAINING CERTAIN DRUGS.

3. TRAFFICKING: A) OFFENSES ARE GROUPED INTO THREE
CATEGORIES: (1) THOSE PERTAINING TO DRUGS WHICH CAN BE
IMPORTED INTO ZAMBIA UNDER A LICENCE GRANTED BY THE MINISTER
OF HEALTH, I.E. RAW OPIUM, COCA LEAVES, POPPY STRAW, CANNABIS,
CANNABIS RESIN AND ALL PREPARATIONS OF WHICH CANNABIS RESIN

FORMS THE BASE; (2) "PREPARED OPIUM", I.E. OPIUM PREPARED FOR SMOKING. THIS INCLUDES DROSS AND ANY OTHER RESIDUES REMAINING AFTER OPIUM HAS BEEN SMOKED; AND (3) ALL OTHER CONTROLLED SUBSTANCES AS LISTED IN SCHEDULE SECTIONS 12, 13 AND 14 OF THE ACT. B) THERE ARE MAXIMUM PENALTIES FOR OFFENSES AGAINST THE DAGEROUS DRUGS ACT, I.E. A FINE NOT EXCEEDING FIVE HUNDRED KWACHA (APPROXIMATELY SIX HUNDRED AND EIGHT U.S. DOLLARS) OR IMPRISONMENT FOR A PERIOD NOT EXCEEDING THREE YEARS, OR BOTH SUCH FINE AND IMPRISONMENT. THERE IS NO MINIMUM PENALTY SPECIFIED. A PERSON CHARGED WITH AN OFFENCE AGAINST THE ACT MAY BE ALLOWED OUT ON BAIL PENDING TRIAL. ZAMBIA DOES NOT HAVE A PAROLE PROCEDURE. IF A PERSON IS IMPRISONED, HIS SENTENCE MAY BE REDUCED BY ONE THIRD FOR GOOD BEHAVIOR. C) THE LAW DOES NOT DIFFERENTIATE BETWEEN POSSESSION AND TRAFFICKING ON THE BASIS OF THE AMOUNT OF THE DRUG SEIZED. D) IT IS A CRIMINAL OFFENSE UNDER THE ACT TO CONSPIRE TO TRAFFICK OR IMPORT OR EXPORT NARCOTICS.

4. CULTIVATION, PRODUCTION, ELABORATION: A) THE CULTIVATION OF ANY PLANT FROM WHICH A DRUG IS DERIVED IS PROHIBITED BY LAW EXCEPT UNDER A LICENCE GRANTED BY THE MINISTER OF HEALTH. THE PRESCRIBED PENALTY FOR ANY OFFENCE (NOT RELATED TO RECORD KEEPING) AGAINST THE ACT IS A FINE NOT EXCEEDING FIVE HUNDRED KWACHA OR FINE AND IMPRISONMENT. B) IT IS LEGAL TO CULTIVATE THESE UNCLASSIFIED

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PLANTS UNDER A LICENCE, HOWEVER, A PERSON WHO DOES SO IS RESTRICTED ACCORDING TO THE TERMS AND CONDITIONS OF THE LICENCE. IN ACTUAL PRACTICE, NO DRUG HAS BEEN LICENCED FOR CULTIVATION. C) THERE ARE PENALTIES FOR ELABORATING NARCOTICS SUBSTANCES FROM CANNABIS, COCA AND OPIUM POPPIES WITHOUT A LICENCE. THE PENALTIES FOR THIS OFFENCE ARE THE SAME AS THOSE FOR ANY OTHER OFFENCE AGAINST THE ACT. SEE 4 A).

5. FINANCIAL: A) IT IS AN OFFENCE UNDER THE ACT FOR A PERSON TO PROVIDE FINANCIAL SUPPORT FOR CULTIVATION, ELABORATION OR TRAFFICKING IN NARCOTICS UNLESS HE IS AUTHORIZED TO DO SO. B) EXPORT OF CURRENCY IS STRICTLY CONTROLLED UNDER THE EXCHANGE CONTROL ACTS AND REGULATIONS. IN ORDER TO EXPORT CURRENCY IT IS NECESSARY TO HAVE THE PRIOR APPROVAL OF THE BANK OF ZAMBIA. THIS APPROVAL CAN BE VERY DIFFICULT TO OBTAIN. FOREIGN BANKS ACCOUNTS ARE ONLY ALLOWED IF APPROVAL FROM THE BANK OF ZAMBIA IS OBTAINED. THOSE EXPATRIATE EMPLOYEES WHO REMIT THEIR SALARIES ABROAD MONTHLY ARE ENTITLED TO OPERATE A FOREIGN BANK ACCOUNT.

6. CRIMINAL PROCEDURE: A) A PERSON MAY BE DETAINED IN CUSTODY OR ALLOWED OUT OF BAIL ONCE CHARGED AND BROUGHT BEFORE A MAGISTRATE. OFTEN THE PRESERVATION OF PUBLIC SECURITY ACT (CHAPTER 106, VOL. II, LAWS OF ZAMBIA) IS USED AS A TOOL OF INVESTGATIVE DETENTION. UNDER THE ACT, POLICE OFFICERS OF THE RANK OF ASSISTANT INSPECTOR OR ABOVE MAY ARREST WITHOUT A WARRANT AND CAUSE A PERSON TO BE DETAINED FOR UP TO TWENTY-EIGHT DAYS BEFORE BRINGING CHARGES. WHILE DETENTION CASES MUST BE REVIEWED BY A TRIBUNAL WITHIN ONE MONTH AND AT INTERVALS OF NOT MORE THAN SIX MONTHS THERAFTER, THE PERIOD OF DETENTION ITSELF MAY BE INDEFINITE. B) THE CUSTOMARY LEGNTH OF PRE-TRIAL DETENTION IS TWO DAYS. C) (I) THE USUAL LENGHT OF TRIAL IS SIX WEEKS IF REPRESENTED BY ADVOCATES.
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(II) THE USUAL LENGTH/CONFIRMATION PROCEEDINGS IS TWO WEEKS. (III) IT IS IMPOSSIBLE TO DETERMINE A SPECIFIC LENGTH OF TIME REQUIRED FOR THE APPELLATE PROCESS. D) FREE LEGAL AID IS ONLY AVAILABLE IF A PERSON HAS NO FUNDS OF HIS OWN. THERE ARE ADEQUATE LAWYERS IN ZAMBIA TO HANDLE SUCH CASES AND THE FEE WOULD DEPEND ON THE ACTUAL AMOUNT OF TIME SPENT ON THE CASE. AN APPROXIMATE COST WOULD BE ONE THOUSAND CKWACHA (ONE THOUSAND, TWO HUNDRED AND TEN U.S. DOLLARS). E) ZAMBIA DOES NOT HAVE A PAROLE PROCDURE. IF FOR ANY REASON A PERSON IS IMPRISONED, HIS SENTENCE MAY BE REDUCED BY A THIRD FOR GOOD CONDUCT. F) YES. A NON-CITIZEN OF ZAMBIA IS LIKELY TO BE DEPORTED AFTER COMPLETING HIS PERIOD OF SENTENCE FOR THESE OFFENCES. OUR MOST RECENT EXPERIENCE WAS WITH A PERSON ARRESTED FOR POSSESSION OF "DAGGA" (MARIJUANA). AFTER AN APPEAL BY THE CONSULAR OFFICER AMCIT TOURIST WAS FINED THIRTY KWACHA (TWENTY-FIVE U.S. DOLLARS) AND DEPORTED.
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